

1 AN ACT in relation to child support.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Section 10-16.5 as follows:

6 (305 ILCS 5/10-16.5)

7 Sec. 10-16.5. Interest on support obligations. A
8 support obligation, or any portion of a support obligation,
9 which becomes due and remains unpaid for 30 days or more
10 shall accrue interest at the rate of 9% per annum. Interest
11 on support obligations shall be calculated as simple
12 interest. Interest amounts shall be posted on a monthly
13 basis and maintained by each obligation as a separate amount
14 payable to the payee. Current and accrued amount dues
15 transferred to an arrearage balance as well as any arrearage
16 transferred to a new established balance shall accrue
17 interest on the balance of the unpaid arrearage amount.
18 Terms of payment schedules on arrearage amounts, as a result
19 of a court order, shall not affect interest calculations.
20 Accrued interest on support obligations shall not be
21 transferred to established balances. Notice of accrued
22 interest amounts must be sent to all parties at least
23 annually.

24 (Source: P.A. 91-397, eff. 1-1-00.)

25 Section 10. The Illinois Marriage and Dissolution of
26 Marriage Act is amended by changing Section 505 as follows:

27 (750 ILCS 5/505) (from Ch. 40, par. 505)

28 Sec. 505. Child support; contempt; penalties.

29 (a) In a proceeding for dissolution of marriage, legal

1 separation, declaration of invalidity of marriage, a
 2 proceeding for child support following dissolution of the
 3 marriage by a court which lacked personal jurisdiction over
 4 the absent spouse, a proceeding for modification of a
 5 previous order for child support under Section 510 of this
 6 Act, or any proceeding authorized under Section 501 or 601 of
 7 this Act, the court may order either or both parents owing a
 8 duty of support to a child of the marriage to pay an amount
 9 reasonable and necessary for his support, without regard to
 10 marital misconduct. The duty of support owed to a minor
 11 child includes the obligation to provide for the reasonable
 12 and necessary physical, mental and emotional health needs of
 13 the child.

14 (1) The Court shall determine the minimum amount of
 15 support by using the following guidelines:

Number of Children	Percent of Supporting Party's Net Income
1	20%
2	25%
3	32%
4	40%
5	45%
6 or more	50%

24 (2) The above guidelines shall be applied in each
 25 case unless the court makes a finding that application of
 26 the guidelines would be inappropriate, after considering
 27 the best interests of the child in light of evidence
 28 including but not limited to one or more of the following
 29 relevant factors:

- 30 (a) the financial resources and needs of the
31 child;
- 32 (b) the financial resources and needs of the
33 custodial parent;
- 34 (c) the standard of living the child would

1 have enjoyed had the marriage not been dissolved;

2 (d) the physical and emotional condition of
3 the child, and his educational needs; and

4 (e) the financial resources and needs of the
5 non-custodial parent.

6 If the court deviates from the guidelines, the
7 court's finding shall state the amount of support that
8 would have been required under the guidelines, if
9 determinable. The court shall include the reason or
10 reasons for the variance from the guidelines.

11 (3) "Net income" is defined as the total of all
12 income from all sources, minus the following deductions:

13 (a) Federal income tax (properly calculated
14 withholding or estimated payments);

15 (b) State income tax (properly calculated
16 withholding or estimated payments);

17 (c) Social Security (FICA payments);

18 (d) Mandatory retirement contributions
19 required by law or as a condition of employment;

20 (e) Union dues;

21 (f) Dependent and individual
22 health/hospitalization insurance premiums;

23 (g) Prior obligations of support or
24 maintenance actually paid pursuant to a court order;

25 (h) Expenditures for repayment of debts that
26 represent reasonable and necessary expenses for the
27 production of income, medical expenditures necessary
28 to preserve life or health, reasonable expenditures
29 for the benefit of the child and the other parent,
30 exclusive of gifts. The court shall reduce net
31 income in determining the minimum amount of support
32 to be ordered only for the period that such payments
33 are due and shall enter an order containing
34 provisions for its self-executing modification upon

1 termination of such payment period.

2 (4) In cases where the court order provides for
3 health/hospitalization insurance coverage pursuant to
4 Section 505.2 of this Act, the premiums for that
5 insurance, or that portion of the premiums for which the
6 supporting party is responsible in the case of insurance
7 provided through an employer's health insurance plan
8 where the employer pays a portion of the premiums, shall
9 be subtracted from net income in determining the minimum
10 amount of support to be ordered.

11 (4.5) In a proceeding for child support following
12 dissolution of the marriage by a court that lacked
13 personal jurisdiction over the absent spouse, and in
14 which the court is requiring payment of support for the
15 period before the date an order for current support is
16 entered, there is a rebuttable presumption that the
17 supporting party's net income for the prior period was
18 the same as his or her net income at the time the order
19 for current support is entered.

20 (5) If the net income cannot be determined because
21 of default or any other reason, the court shall order
22 support in an amount considered reasonable in the
23 particular case. The final order in all cases shall
24 state the support level in dollar amounts. However, if
25 the court finds that the child support amount cannot be
26 expressed exclusively as a dollar amount because all or a
27 portion of the payor's net income is uncertain as to
28 source, time of payment, or amount, the court may order a
29 percentage amount of support in addition to a specific
30 dollar amount and enter such other orders as may be
31 necessary to determine and enforce, on a timely basis,
32 the applicable support ordered.

33 (6) If (i) the non-custodial parent was properly
34 served with a request for discovery of financial

1 information relating to the non-custodial parent's
2 ability to provide child support, (ii) the non-custodial
3 parent failed to comply with the request, despite having
4 been ordered to do so by the court, and (iii) the
5 non-custodial parent is not present at the hearing to
6 determine support despite having received proper notice,
7 then any relevant financial information concerning the
8 non-custodial parent's ability to provide child support
9 that was obtained pursuant to subpoena and proper notice
10 shall be admitted into evidence without the need to
11 establish any further foundation for its admission.

12 (a-5) In an action to enforce an order for support based
13 on the respondent's failure to make support payments as
14 required by the order, notice of proceedings to hold the
15 respondent in contempt for that failure may be served on the
16 respondent by personal service or by regular mail addressed
17 to the respondent's last known address. The respondent's
18 last known address may be determined from records of the
19 clerk of the court, from the Federal Case Registry of Child
20 Support Orders, or by any other reasonable means.

21 (b) Failure of either parent to comply with an order to
22 pay support shall be punishable as in other cases of
23 contempt. In addition to other penalties provided by law the
24 Court may, after finding the parent guilty of contempt, order
25 that the parent be:

26 (1) placed on probation with such conditions of
27 probation as the Court deems advisable;

28 (2) sentenced to periodic imprisonment for a period
29 not to exceed 6 months; provided, however, that the Court
30 may permit the parent to be released for periods of time
31 during the day or night to:

32 (A) work; or

33 (B) conduct a business or other self-employed
34 occupation.

1 The Court may further order any part or all of the
2 earnings of a parent during a sentence of periodic
3 imprisonment paid to the Clerk of the Circuit Court or to the
4 parent having custody or to the guardian having custody of
5 the minor children of the sentenced parent for the support of
6 said minor children until further order of the Court.

7 If there is a unity of interest and ownership sufficient
8 to render no financial separation between a non-custodial
9 parent and another person or persons or business entity, the
10 court may pierce the ownership veil of the person, persons,
11 or business entity to discover assets of the non-custodial
12 parent held in the name of that person, those persons, or
13 that business entity. The following circumstances are
14 sufficient to authorize a court to order discovery of the
15 assets of a person, persons, or business entity and to compel
16 the application of any discovered assets toward payment on
17 the judgment for support:

18 (1) the non-custodial parent and the person,
19 persons, or business entity maintain records together.

20 (2) the non-custodial parent and the person,
21 persons, or business entity fail to maintain an arms
22 length relationship between themselves with regard to any
23 assets.

24 (3) the non-custodial parent transfers assets to
25 the person, persons, or business entity with the intent
26 to perpetrate a fraud on the custodial parent.

27 With respect to assets which are real property, no order
28 entered under this paragraph shall affect the rights of bona
29 fide purchasers, mortgagees, judgment creditors, or other
30 lien holders who acquire their interests in the property
31 prior to the time a notice of lis pendens pursuant to the
32 Code of Civil Procedure or a copy of the order is placed of
33 record in the office of the recorder of deeds for the county
34 in which the real property is located.

1 The court may also order in cases where the parent is 90
2 days or more delinquent in payment of support or has been
3 adjudicated in arrears in an amount equal to 90 days
4 obligation or more, that the parent's Illinois driving
5 privileges be suspended until the court determines that the
6 parent is in compliance with the order of support. The court
7 may also order that the parent be issued a family financial
8 responsibility driving permit that would allow limited
9 driving privileges for employment and medical purposes in
10 accordance with Section 7-702.1 of the Illinois Vehicle Code.
11 The clerk of the circuit court shall certify the order
12 suspending the driving privileges of the parent or granting
13 the issuance of a family financial responsibility driving
14 permit to the Secretary of State on forms prescribed by the
15 Secretary. Upon receipt of the authenticated documents, the
16 Secretary of State shall suspend the parent's driving
17 privileges until further order of the court and shall, if
18 ordered by the court, subject to the provisions of Section
19 7-702.1 of the Illinois Vehicle Code, issue a family
20 financial responsibility driving permit to the parent.

21 In addition to the penalties or punishment that may be
22 imposed under this Section, any person whose conduct
23 constitutes a violation of Section 15 of the Non-Support
24 Punishment Act may be prosecuted under that Act, and a person
25 convicted under that Act may be sentenced in accordance with
26 that Act. The sentence may include but need not be limited
27 to a requirement that the person perform community service
28 under Section 50 of that Act or participate in a work
29 alternative program under Section 50 of that Act. A person
30 may not be required to participate in a work alternative
31 program under Section 50 of that Act if the person is
32 currently participating in a work program pursuant to Section
33 505.1 of this Act.

34 A support obligation, or any portion of a support

1 obligation, which becomes due and remains unpaid for 30 days
2 or more shall accrue interest at the rate of 9% per annum.
3 Interest on support obligations shall be calculated as simple
4 interest. Interest amounts shall be posted on a monthly
5 basis and maintained by each obligation as a separate amount
6 payable to the payee. Current and accrued amount dues
7 transferred to an arrearage balance as well as any arrearage
8 transferred to a new established balance shall accrue
9 interest on the balance of the unpaid arrearage amount.
10 Terms of payment schedules on arrearage amounts, as a result
11 of a court order, shall not affect interest calculations.
12 Accrued interest on support obligations shall not be
13 transferred to established balances. Notice of accrued
14 interest amounts must be sent to all parties at least
15 annually.

16 (c) A one-time charge of 20% is imposable upon the
17 amount of past-due child support owed on July 1, 1988 which
18 has accrued under a support order entered by the court. The
19 charge shall be imposed in accordance with the provisions of
20 Section 10-21 of the Illinois Public Aid Code and shall be
21 enforced by the court upon petition.

22 (d) Any new or existing support order entered by the
23 court under this Section shall be deemed to be a series of
24 judgments against the person obligated to pay support
25 thereunder, each such judgment to be in the amount of each
26 payment or installment of support and each such judgment to
27 be deemed entered as of the date the corresponding payment or
28 installment becomes due under the terms of the support order.
29 Each such judgment shall have the full force, effect and
30 attributes of any other judgment of this State, including the
31 ability to be enforced. A lien arises by operation of law
32 against the real and personal property of the noncustodial
33 parent for each installment of overdue support owed by the
34 noncustodial parent.

1 (e) When child support is to be paid through the clerk
2 of the court in a county of 1,000,000 inhabitants or less,
3 the order shall direct the obligor to pay to the clerk, in
4 addition to the child support payments, all fees imposed by
5 the county board under paragraph (3) of subsection (u) of
6 Section 27.1 of the Clerks of Courts Act. Unless paid in
7 cash or pursuant to an order for withholding, the payment of
8 the fee shall be by a separate instrument from the support
9 payment and shall be made to the order of the Clerk.

10 (f) All orders for support, when entered or modified,
11 shall include a provision requiring the obligor to notify the
12 court and, in cases in which a party is receiving child and
13 spouse services under Article X of the Illinois Public Aid
14 Code, the Illinois Department of Public Aid, within 7 days,
15 (i) of the name and address of any new employer of the
16 obligor, (ii) whether the obligor has access to health
17 insurance coverage through the employer or other group
18 coverage and, if so, the policy name and number and the names
19 of persons covered under the policy, and (iii) of any new
20 residential or mailing address or telephone number of the
21 non-custodial parent. In any subsequent action to enforce a
22 support order, upon a sufficient showing that a diligent
23 effort has been made to ascertain the location of the
24 non-custodial parent, service of process or provision of
25 notice necessary in the case may be made at the last known
26 address of the non-custodial parent in any manner expressly
27 provided by the Code of Civil Procedure or this Act, which
28 service shall be sufficient for purposes of due process.

29 (g) An order for support shall include a date on which
30 the current support obligation terminates. The termination
31 date shall be no earlier than the date on which the child
32 covered by the order will attain the age of majority or is
33 otherwise emancipated. The order for support shall state that
34 the termination date does not apply to any arrearage that may

1 remain unpaid on that date. Nothing in this subsection shall
2 be construed to prevent the court from modifying the order.

3 (h) An order entered under this Section shall include a
4 provision requiring the obligor to report to the obligee and
5 to the clerk of court within 10 days each time the obligor
6 obtains new employment, and each time the obligor's
7 employment is terminated for any reason. The report shall be
8 in writing and shall, in the case of new employment, include
9 the name and address of the new employer. Failure to report
10 new employment or the termination of current employment, if
11 coupled with nonpayment of support for a period in excess of
12 60 days, is indirect criminal contempt. For any obligor
13 arrested for failure to report new employment bond shall be
14 set in the amount of the child support that should have been
15 paid during the period of unreported employment. An order
16 entered under this Section shall also include a provision
17 requiring the obligor and obligee parents to advise each
18 other of a change in residence within 5 days of the change
19 except when the court finds that the physical, mental, or
20 emotional health of a party or that of a minor child, or
21 both, would be seriously endangered by disclosure of the
22 party's address.

23 (Source: P.A. 90-18, eff. 7-1-97; 90-476, eff. 1-1-98;
24 90-539, eff. 6-1-98; 90-655, eff. 7-30-98; 90-733, eff.
25 8-11-98; 91-113, eff. 7-15-99; 91-397, eff. 1-1-00; 91-655,
26 eff. 6-1-00; 91-767, eff. 6-9-00; revised 6-28-00.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.